

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Jabbar J. Straws,
aka Jabbar Jomo Straws,

Plaintiff,

v.

Sgt. Roach; Bruce Oberman;
Nurse Pract; Dr. Pate; Nurse
Practitioner Susan Blake; Nurse
Boyd; Nurse Singlee; C. James;
and D. Patterson;

Defendants.

C/A No. 4:11-132-TMC

ORDER

Jabbar J. Straws ("Plaintiff"), a *pro se* prisoner, filed this action pursuant to 42 U.S.C. § 1983 alleging violations of his constitutional rights while he was housed at the Lee Correctional Institution. (Compl. at 3-5). This matter is before the court on the Defendant Singley's Motion to Dismiss filed on April 14, 2011. (Dkt. # 46). The Magistrate Judge's Report and Recommendation (Dkt. # 54) filed on September 8, 2011, recommends that the Defendant Singley's Motion to Dismiss be denied without prejudice. The Report and Recommendation sets forth in detail the relevant facts and legal standards on this matter, and the court incorporates the Magistrate Judge's Report herein without a recitation.

The Magistrate Judge's Report and Recommendation is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The court is charged with making a *de*

novo determination of those portions of the Report and Recommendation to which specific objections are made, and the court may accept, reject, or modify, in whole or in part, the Magistrate Judge's recommendation or recommit the matter with instructions. *See* 28 U.S.C. § 636(b)(1).

Plaintiff was advised of his right to file objections to the Report and Recommendation (Dkt. #54 Attach. #1). However, no objections to the Report and Recommendation were filed by either party.

In the absence of objections to the Magistrate Judge's Report and Recommendation, this court is not required to provide an explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, "in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee's note). Furthermore, failure to file specific written objections to the Report and Recommendation results in a party's waiver of the right to appeal from the judgment of the District Court based upon such recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).

After a thorough review of the Report and Recommendation and the record in this case, the court adopts the Magistrate Judge's Report and Recommendation (Dkt. # 54) and incorporates it herein. It is therefore **ORDERED** that the Defendant Singley's Motion to Dismiss (Dkt. # 46) is DENIED without prejudice.

IT IS SO ORDERED.

s/Timothy M. Cain
United States District Judge

Greenville, South Carolina
October 20, 2011

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order within 30 days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.